

STATEMENT OF REASONS  
WHY CHANGES IN THE REGULATIONS UNDER  
CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW,  
THE CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT  
CORPORATE SECURITIES LAW OF 1968,  
AND ESCROW LAW  
AS SET FORTH IN CHAPTER 3, TITLE 10,  
CALIFORNIA CODE OF REGULATIONS  
ARE CHANGES WITHOUT REGULATORY EFFECT

As required by Section 100 of the rules of the Office of Administrative Law, the California Corporations Commissioner sets forth below the reasons for the proposed amendments to Sections 260.210, 260.211, 1726, 1950.122, and 2020 of Chapter 3, Title 10, California Code of Regulations (hereinafter Rules 260.210, 260.211, 1726 1950.122, and 2020) as changes without regulatory effect.

Section 100 defines a change without regulatory effect as one in which the regulatory provision is inconsistent with and superceded by the changed statute, and the adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

Senate Bill 970 (Chapter 470, Statutes of 2003) added Section 11077.1 to the California Penal Code. Section 11077.1 provides that, commencing July 1, 2005, the Department of Justice (DOJ) may only accept fingerprint images and related information to process requests for criminal offender record information for employment, licensing, certification, custodial child placement, or adoption purposes, if those images and related information are electronically transmitted. Therefore, fingerprint cards received by the DOJ after July 1, 2005 will be returned to the submitting agency for resubmission to the DOJ in the required electronic format. The DOJ will no longer accept fingerprint cards unless a specific need has been demonstrated, or the requestor has been granted an exemption from the electronic submission requirement.

Section 260.210

An individual employed as an agent under the Corporate Securities Law of 1968 must include the cost of fingerprint processing and clearance with the application for licensure under Corporations Code Section 25211. Existing Rule 260.210 sets forth the application for a license under the Corporate Securities Law of 1968, and subsections (b)(1) and (c)(4) requires that an agent attach a "Fingerprint Card" to the application. To address the added requirement of Penal Code Section 11077.1, this action amends Rule 260.210 to require fingerprint information pursuant to the California Penal Code Section 11077.1.

This action further amends references to the "National Association of Securities Dealers Registration, Inc." to instead reference "NASD, Inc.," the registered securities association under Section 15A of the Securities Exchange Act of 1934.

Section 11077.1 is also added to the "Reference" note.

#### Section 260.211

A broker-dealer applying for a license under the Corporate Securities Law of 1968 must include the cost of fingerprint processing and clearance with the application for licensure under Corporations Code Section 25211. Existing Rule 260.211 sets forth the application for a license under the Corporate Securities Law of 1968, and subsection (b)(1)(C)(2) requires that a broker-dealer attach a "Fingerprint Card" to the application. To address the added requirement of Penal Code Section 11077.1, this action amends Rule 260.211 to require fingerprint information pursuant to the California Penal Code Section 11077.1. Section 11077.1 is also added to the "Reference" note.

#### Section 1726

An escrow agent applying for membership to the Escrow Agents' Fidelity Corporation under the Escrow Law must include the cost of fingerprint processing and clearance with the application for membership under Financial Code Section 17312. Existing Rule 1726 sets forth the application for membership under the Escrow Law, and subsection (d) requires that each person named in this application attach a "Fingerprint Card" to the application. To address the added requirement of Penal Code Section 11077.1, this action amends Rule 1726 to require fingerprint information pursuant to the California Penal Code Section 11077.1. Section 11077.1 is also added to the "Reference" note.

#### Section 1950.122

A residential mortgage lender and/or mortgage loan servicer applying for a license under the California Residential Mortgage Lending Act must include the cost of fingerprint processing and clearance with the application for licensure under Financial Code Section 50121(c). Existing Rule 1950.122 sets forth the application for a license under the California Residential Mortgage Lending Act, and Exhibit D requires that each person named in this application attach a "Fingerprint Card" to the application. To address the added requirement of Penal Code Section 11077.1, this action amends Rule 1950.122 to require fingerprint information pursuant to the California Penal Code Section 11077.1. Section 11077.1 is also added to the "Reference" note.

#### Section 2020

A payday lender applying for a license under the California Deferred Deposit Transaction Law ("CDDTL") must include the cost of fingerprint processing and clearance with the application for licensure under Financial Code Section 23005. Existing Rule 2020 sets forth the application for a license under the CDDTL, and Exhibit C requires that each person named in this application attach a "Fingerprint Card" to the application. To address the added requirement of Penal Code Section 11077.1, this action amends Rule 2020 to require fingerprint information pursuant to the California Penal Code Section 11077.1.

The California Legislature enacted Senate Bill 898 (Chapter 777, Statutes 2002) to provide for regulation of persons engaged in the business of deferred deposit transactions and to transfer the corresponding responsibilities from DOJ to the Department of Corporations ("Department"). The CDDTL became effective on January 1, 2003 and became operative on March 1, 2004.

All persons that held a check casher's permit from DOJ prior to January 1, 2003 and engaged in the business of deferred deposit transaction were required to file an application, pay the application fees and pay the initial assessment by May 15, 2003 to the Department. It was determined that those persons that had permits from DOJ and had fingerprints on file with DOJ would not have to submit and pay for the cost of fingerprinting to the Department. This was to eliminate the financial burden of requiring the applicants to pay for the cost of fingerprinting twice during the transition period.

Therefore, in accordance with Financial Code Section 23074, the Department obtained fingerprint records from DOJ for all persons that had fingerprints on file with DOJ and had submitted applications for licensure under Financial Code Section 23005 to the Department up to December 31, 2004.

The Department should not be receiving any applications after December 31, 2004 from anyone that held a permit from DOJ and engaged in the business of deferred deposit transaction prior to January 1, 2003. The provision in Exhibit C regarding check cashers and the language indicating they do not need to submit fingerprint information if they had submitted prior to January 1, 2003, a fingerprint card to DOJ, became obsolete after December 31, 2004. Leaving the obsolete language in the regulations may be confusing to an applicant under the CDDTL and may cause a delay in the processing of the license application should the applicant fail to submit fingerprint records to the Department. The deletion does not materially alter any requirement, responsibility or other regulatory elements of the California Code of Regulations provisions.

Section 11077.1 is also added to the "Reference" note.